



National Association of Federal Credit Unions

3138 10th Street North • Arlington, Virginia • 22201-2149
(703) 522-4770 • (800) 336-4644 • Fax (703) 522-2734

Fred R. Becker, Jr.
President and CEO

June 9, 2011

The Honorable Ben S. Bernanke
Chairman of the Board
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chairman Bernanke:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents federal credit unions, I am writing regarding the Board's proposed rule on interchange fees and network routing requirements. As you know, yesterday the Senate considered an amendment offered by Senators Jon Tester and Bob Corker which would have delayed the effective date and required further study of the interchange issue.

The amendment addressed the two primary concerns of the credit union industry. Specifically, the proposed rule's narrow definition of allowed costs resulted in a capped rate that fails to adequately compensate debit card issuers for the cost of processing transactions. Further, and as you yourself have noted – along with virtually every other federal financial institution regulator – small issuers are in all likelihood going to be directly and adversely impacted. The Tester-Corker amendment would have alleviated such concerns by putting into place the much needed and necessary review of the impact of the debit interchange provision on small issuers.

While the Tester-Corker amendment failed, NAFCU believes the support the amendment garnered lends further credence to the industry's comments regarding the proposed rule. While I understand that the final rule must stay within the confines of the statute, the Board unquestionably has authority to address, at least to some extent, both of the concerns outlined above. First, the Board does have the authority to consider costs beyond authorization, clearance and settlement. In fact, the proposed rule indicates that the Board considered including several other allowable costs that, in its view, would be permitted under §920(a) of the Electronic Funds Transfer Act (EFTA).¹ The amendment the Senate voted on yesterday is evidence that there is indeed concern with the limited

¹ Debit Card Interchange Fees and Routing, 75 Fed. Reg. 81,722, 81,734-35 (proposed Dec. 28, 2010) (to be codified at 12 C.F.R. pt. 235).

E-mail: fbecker@nafcu.org • **Web site:** www.nafcu.org

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number of costs the Board considered and the correspondingly insufficient interchange fee the Board approved in the proposed rule. NAFCU respectfully requests that the Board use its authority under the statute to consider all of the costs necessary to operate a debit card program.

The amendment also offers an instructive process for addressing industry concerns regarding the impact on small issuers. While the amendment failed, certainly the Board would be within its authority to conduct a study of the impact on small issuers and the feasibility of a bifurcated debit card interchange system. Indeed, with the effective date quickly approaching, the Board will soon be able to study the extent to which small issuers are adversely impacted, in practice, as opposed to theory. Given the Board's role as the regulator in charge of the interchange fee price cap, the agency would be in an ideal position to study and report on the this critical issue.

The Board has obviously been studying this issue for quite some time. Nonetheless, the events of the last week illustrate the deep rooted and wide ranging concerns regarding this complicated matter. I would again urge the Board to use its authority to set the interchange fee cap at a level that better reflects the actual costs of operating a debit card program. I also hope the Board considers examining and reporting on the impact on small issuers and other issues with the law's implementation.

NAFCU appreciates this opportunity to share its concerns on this important issue. If you have any questions on this or any other matter, please have your office contact me or Dillon Shea, NAFCU's Associate Director of Regulatory Affairs, at dshea@nafcuh.org or by telephone at 703-842-2212.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred R. Becker, Jr.", with a stylized, cursive script.

Fred R. Becker, Jr.